

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

ROBERT WINSTON,

**Complainant,**

and

IT'S TIME FOR A CHANGE, RMC,

Respondent.

CHARGE NO(S): 2008CF0880

EEOC NO(S): 21BA80009

ALS NO(S): 08-0351

## NOTICE

You are hereby notified that the Illinois Human Rights Commission has not received timely exceptions to the Recommended Order and Decision in the above named case. Accordingly, pursuant to Section 8A-103(A) and/or 8B-103(A) of the Illinois Human Rights Act and Section 5300.910 of the Commission's Procedural Rules, that Recommended Order and Decision has now become the Order and Decision of the Commission.

STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION

Entered this 9<sup>th</sup> day of February 2010

**N. KEITH CHAMBERS**  
**EXECUTIVE DIRECTOR**



6. On November 20, 2008, the matter was set for another status hearing on December 4, 2008.
7. Per the November 20, 2008 order, Respondent filed a Proof of Service with the Commission certifying that a copy of the November 20, 2008 order had been served upon Complainant.
8. On December 4, 2008, Respondent appeared. Complainant failed to appear.
9. Per the December 4, 2008 order, Respondent filed a Proof of Service with the Commission certifying that a copy of the December 4, 2008 order had been served upon Complainant.
10. Respondent filed its Motion to Dismiss on December 11, 2008.
11. As per the December 4, 2008 order, Complainant had until December 31, 2008 to file a response.
12. Respondent filed a Proof of Service with the Commission certifying that the Motion was served on Complainant on December 11, 2008.
13. Complainant has not filed a response to the Motion.

#### **CONCLUSIONS OF LAW**

1. A complaint may be dismissed when a party fails to appear at a scheduled hearing without requesting a continuance reasonably in advance or unreasonably refuses to comply with a Commission Order or otherwise engages in conduct which unreasonably delays or protracts proceedings.
2. Since Complainant has failed to appear at all scheduled status hearings and has failed to comply with several Commission Orders, the appropriate sanction is dismissal of the Complaint, and the underlying charge, with prejudice.

#### **DISCUSSION**

Under Commission procedural rules, an Administrative Law Judge may recommend to the Commission that a complaint be dismissed where a party fails to

appear at a scheduled status hearing, unreasonably refuses to comply with a Commission Order or otherwise engages in conduct which unreasonably delays or protracts proceedings. See **56 Ill. Admin. Code §5300.750(e)**.

A fundamental principle governing practice before the Commission is that complainants must diligently pursue their cases once they are docketed with the Commission. Complainant has failed to appear for all scheduled status hearings. He has also failed to comply with several Commission Orders. It appears that Complainant has simply abandoned his claim in this case. As such, it is appropriate to dismiss his Complaint, with prejudice. **Aceves and Everlast Concrete, Inc. and Artech Concrete, Inc.**, IHRC, 12187, May 18, 2005.

In addition, Complainant has not filed any response to the Motion. The Commission has held that a dispositive motion should be granted where it appears on its face to be valid and the Complainant has failed to file a response. **Jones and Burlington Northern Railroad**, 25 Ill. HRC Rep. 101 (1986).

#### **RECOMMENDATION**

I recommend the Commission dismiss the Complaint, and the underlying charge, with prejudice.

#### **HUMAN RIGHTS COMMISSION**

BY: \_\_\_\_\_  
**REVA S. BAUCH**  
**DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE**  
**ADMINISTRATIVE LAW SECTION**

**ENTERED: January 8, 2009**